



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. MCTIGUE
DIRECTOR

February 18, '1994
AO-94-03

L. Michael Bogert
Assistant Legislative Counsel
National Rifle Association of America
Institute For Legislative Action
1600 Rhode Island Avenue, N.W.
Washington, DC 20036

Re: Contributions by National Rifle Association-
Political Victory Fund to Massachusetts political
committees

Dear Mr. Bogert:

This letter is in response to your December 22, 1993
letter requesting clarification of AO-93-01.

The facts provided in connection with AO-93-01 were as
follows: the National Rifle Association Political Victory
Fund (NRAPVF) receives office space, facilities and supplies
from the Institute for Legislative Action (ILA), which is
the legislative and political arm of the NRA. The
administrative support is provided at no charge to the
NRAPVF. ILA might receive at least some corporate
contributions.

Your office asked if NRAPVF could contribute to
Massachusetts political committees or legally conduct
campaign activity in Massachusetts.

As I indicated in AO-93-01, the Massachusetts campaign
finance law prohibits business corporations from either
directly or indirectly making contributions to Massachusetts
political committees. See M.G.L. c. 55, s. 8. Based on the
facts outlined above, the provisions of M.G.L. c. 55, s. 8,
and advisory opinions and interpretative bulletins issued by
this office, I stated: (1) that NRAPVF could not contribute
to Massachusetts political committees; and (2) that NRAPVF
could legally conduct campaign activity in Massachusetts
only by setting up a separate segregated Massachusetts
account by registering a political committee in
Massachusetts. After registering, the newly established
Massachusetts political committee could begin accepting
contributions and making expenditures, subject to the
provisions of M.G.L. c. 55.

In your recent letter you state that the NRA is organized under the laws of New York as a 501(c)(4) non-profit corporation. You have asked two questions: (1) whether a non-profit corporation should be considered a business corporation subject to the restrictions of M.G.L. c. 55; and (2) whether administrative support by "a separate segregated fund by a non-profit corporation" (I assume you are referring to the ILA) to the NRAPVF should be considered an in-kind contribution prohibited by M.G.L. c. 55.

Your two questions can be reduced to one inquiry: can a non-profit corporation or association, which is not registered as a political committee in Massachusetts, make contributions to a Massachusetts political committee where the non-profit corporation or association has received contributions from business corporations?

Section 8 of M.G.L. c. 55 states, in pertinent part:

. . . no business corporation incorporated under the laws of or doing business in the commonwealth and no officer or agent acting in behalf of any corporation mentioned in this section, shall directly or indirectly give, pay, expend or contribute, or promise to give, pay, expend or contribute, any money or other valuable thing for the purpose of aiding, promoting or preventing the nomination or election of any person to public office, or aiding or promoting or antagonizing the interest of any political party. [Emphasis added].

Whether a non-profit corporation or association is subject to the restrictions imposed by section 8 depends on whether the corporate contributions received by the non-profit corporation or association were designed to influence the electoral process. See First National Bank of Boston v. Attorney General, 371 Mass. 773, 359 N.E. 2d 1262, 1273 (1977), rev'd on other grounds, First National Bank of Boston v. Bellotti, 435 U.S. 765 (1978). The prohibition against corporate financial involvement in the election of candidates for state and local office is not necessarily limited to direct expenditures by the corporation itself. "The prohibition extends to both direct or indirect expenditures or contributions. If a corporation cannot directly provide facilities to a candidate or committee by virtue of the statute, it may not do so indirectly through the associations to which it belongs." Opinion of the Attorney General, November 6, 1980, n. 10.

Sections 10 and 18A of Chapter 55 refer to associations making contributions to political committees. Involvement by associations in the political process was clearly contemplated by the legislature. Such associations may not, however, be vehicles for circumventing the prohibition against corporate contributions.

In conclusion, the NRAPVF's receipt of administrative support from the ILA would involve an "in-kind corporate

contribution" to the extent the ILA has received contributions from business corporations intended to influence the political process, even if the NRA is a non-profit corporation.¹ To conclude otherwise would be to allow circumvention of the prohibitions contained in section 8 of M.G.L. c. 55.

This opinion has been rendered solely on the basis of the representations made in your letter and solely in the context of M.G.L. c. 55.

Please do not hesitate to contact this office should you have additional questions.

Very truly yours,



Mary F. McTigue
Director

MFM/cp

¹. Neither this opinion nor AO-93-01 concluded that the ILA actually received contributions from business corporations. The facts in your letters did not warrant a conclusion on the issue. If the ILA did not receive such contributions, then administrative support provided by the ILA to the NRAPVF would not appear to raise concerns under section 8.